



Haryana Government Gazette

Published by Authority

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No. 49-2022] CHANDIGARH, TUESDAY, DECEMBER 6, 2022 (AGRAHAYANA 15, 1944 SAKA)

PART-I

Notifications, Orders and Declarations by Haryana Government

STATE ELECTION COMMISSION, HARYANA
NIRVACHAN SADAN, PLOT NO. 2, SECTOR-17, PANCHKULA-134109

Order

The 1st December, 2022

No. SEC/2ME/2022/6964.— Whereas, Smt. Anju Bala w/o Sh. Lekh Raj was elected as President, Municipal Council, Sohna during general elections of municipal bodies held on 19.06.2022 and result of which was declared on 22.06.2022. Smt. Lalita had made a complaint dated 28.06.2022 against Smt. Anju Bala, the elected President, alleging therein that she had obtained a letter from Principal, Adarsh Public School, Rajpur Badha, District Alwar, Rajasthan according to which the educational qualification certificate submitted by Smt. Anju Bala with her nomination has not been issued by the Principal or by any other authorized staff of the Adarsh Public School, Rajpur Badha, District Alwar, Rajasthan and she had contested election on the basis of her fake/bogus educational qualification certificate.

2. The complaint made by Smt. Lalita was sent to the Deputy Commissioner, Gurugram by the State Election Commission, Haryana *vide* its letter No. SEC/2ME/2022/6217, dated 07.07.2022 with the direction to get an enquiry conducted by the Additional Deputy Commission/Sub-Divisional Officer (Civil) and submit enquiry report within one month (not later than 14.08.2022) positively to the State Election Commission, Haryana.

3. Whereas, the Deputy Commissioner, Gurugram *vide* his memo No. 1127/L.B., dated 06.09.2022 has sent an enquiry report to the State Election Commissioner, Haryana which was conducted by the Additional Deputy Commissioner, Gurugram. The relevant extent of the enquiry report is as under.

“In view of the above, I am of the opinion that the mark-sheet submitted by Smt. Anju Bala (candidate) at the time of nomination does not bear date of issuance. Sh. Mukesh Upadhyay’s position as Head Master of the school is not clear because there is no record available. He was in neither official capacity in 1994-95 nor after closure of the school in 2003, so his signature on the mark-sheet questionable. Smt. Anju Bala after providing due opportunity has failed to establish the genuineness of the mark-sheet submitted by her at the time of nomination. Therefore, I am of the opinion that the mark-sheet of Smt. Anju Bala at the time filing of nomination appears to be fake.”

4. Whereas, clause (h) of sub-section (1) of section 13A and section 13I of the Haryana Municipal Act, 1973 and clause (p) of sub-rule (1) of rule 21 of the Haryana Municipal Election Rules, 1978 contain the following provisions:-

“13A. Disqualifications for President and Members.—(1) A person shall be disqualified for being chosen as and for being President or a member of a municipality.

(h) if he has not passed matriculation examination or its equivalent examination from any recognized institution/board:

Provided that in case of a woman candidate or a candidate belonging to Scheduled Caste, the minimum qualification shall be middle pass Provided further that in case of a woman candidate belonging to Scheduled Caste, the minimum qualification for members excluding the President shall be 5th pass; or

13I. Removal of an elected President and Member having any disqualification at time of election.- The State Election Commission may, after such enquiry, as it may deem fit and after giving an opportunity of being heard, by an order, remove the President or a member, if he was having any disqualification mentioned in section 13A or rules framed under this Act at the time of his election. The office of the President or member so disqualified shall become vacant immediately.

21. Disqualifications for President and members. - (1) No person shall be eligible for election as president or a member of a committee, who,-

(p) has not passed matriculation examination or its equivalent examination from any recognized institution/board:

Provided that in case of a woman candidate or a candidate belonging to Scheduled Caste, the minimum qualification shall be middle pass

Provided further that in case of a woman candidate belonging to Scheduled Caste, the minimum qualification for members excluding president shall be 5th pass.”

5. In view of the above provision, the State Election Commission, Haryana *vide* its letter No. SEC/2ME/2022/ 6708, dated 21.09.2022 issued a Show Cause Notice to Smt. Anju Bala along with a copy of the enquiry report received from the Deputy Commissioner, Gurugram asking her that before proceeding further in the matter and taking action against her under section 13I of the Haryana Municipal Act, 1973, she may produce evidence in her defense support to prove that she has passed her middle school examination (Class 8th) from a recognized Board/School Institution. She was specifically asked to send her reply, if any, within thirty days of issuance of the Show Cause Notice, failing which it will be presumed that she has nothing to say in the matter and she has contested election for the post of President on the basis of a fake/bogus and forged certificate of educational qualification.

6. Smt. Anju Bala submitted her written reply to the Show Cause Notice stating therein that she i.e. Anju Devi alias Anju Bala d/o Sh. Hans Raj (now, w/o Sh. Lekh Raj) was born in village Bhankhri, district Faridabad. Due to closure of factories, her father was shifted to Rajpur Bara, district Alwar for labour and she was got admitted in Adarsh Public School, Rajpur Badha, District Alwar, Rajasthan and passed her 8th Class from that school in 1994-1995, she has further submitted that this examination was conducted by the School at its own had and the Rajasthan School Education Board has not conducted the said examination. She also submitted that she had met with an accident and could not continue her study further. She has also stated that her mark sheet was in torn condition and therefore, she got a duplicate copy of DMC from Adarsh Public School, Rajpur Badha, District Alwar, Rajasthan and her educational qualification certificate attached with the nomination from is genuine. Smt. Anju Bala has also submitted detailed reply is the Show Cause Notice is which has been duly considered by the undersigned and found to be not satisfactory.

7. Smt. Anju Bala was given an opportunity to be heard in person on dated 28.11.2022. She appeared with her husband Sh. Lekh Raj on the said date. During personal hearing enquiry, report sent by the Deputy Commissioner, Gurugram was shown to her and she was asked to submit any documentary proof, if any that she has passed her 8th Class from Adarsh Siksh Samiti Seva Sansthan, Gram Rajpura, Tehsil Rajgarh, District Alwar, Rajshthan. She was specifically asked that copy of the education qualification certificate (8th class pass) does have any date of issuance. Smt. Anju Bala submitted that her old mark-sheet was in torn condition and the ex-Head Master Sh. Mukesh Kumar has prepared a clone/ditto copy of that mark-sheet, however, he forgot to write the date on the same. She has further submitted that the mark sheet submitted by her with her nomination is genuine and is not forged. She has also submitted a copy of duplicate Middle examination (8th class pass) certificate issued by the Board of School Education, Haryana with her written statement according to which she had appeared in the examination of middle held in February 1994 with result as ‘fail’.

8. The enquiry officer in his report has concluded on the following points:-

i. नामांकन के समय संलग्न अंक तालिका मूल है या डूप्लीकेट ? यह कब जारी की गई है ?

अंक तालिका पर मूल/डूप्लीकेट अंकित नहीं है साथ ही अंकतालिका जारी करने की तिथि भी अंकित नहीं है। इससे अंकतालिका कब जारी की गई यह स्पष्ट नहीं है। श्रीमती अंजु बाला ने पुरानी मार्कशीट कटी-फटी होने का हवाला दिया है और एक प्रति लिपि दी है परन्तु नामांकन में उन्होंने इसका हवाला नहीं दिया है और न ही नामांकन पत्र के साथ संलग्न अंकतालिका के साथ डूप्लीकेट शब्द का वर्णन किया गया है। नामांकन के समय श्रीमति अंजु बाला द्वारा लगाई गई अंकतालिका पर डूप्लीकेट शब्द नहीं है। जिससे आर.ओ. द्वारा अंकतालिका मूल होनी मानी गयी होगी, इस पर श्री मुकेश उपाध्याय द्वारा हस्ताक्षर का तात्पर्य है कि 1994-95 में उसके द्वारा जारी की गई है जबकि उस समय उसकी उम्र मात्र 15-16 वर्ष थी। उसने अपने ब्यान में खुद लिखा है

कि 1994-95 में वो विद्यार्थी था। ऐसे में नामांकन पर सभी अंकतालिका मुकेश उपाध्याय द्वारा 1994-95 में कैसे जारी की जा सकती है।

श्री मुकेश उपाध्याय के लिखित जवाब विडियो कॉफ़ेंस के माध्यम से सुनवाई श्री भगवान सहाय के लिखित जवाब से यह स्पष्ट है कि 1994-95 में मुकेश उपाध्याय छात्र थे और स्कूल संचालन में शामिल नहीं थे। साथ ही 2003 में रिकॉर्ड आग से नष्ट होना स्वीकार किया गया है। ऐसी स्थिति में श्री मुकेश उपाध्याय ने कौन से वर्ष में नामांकन पत्र के साथ संलग्न अंकतालिका जारी की है और जब वह स्कूल बन्द हो गया था तो प्रधानाध्यापक कब बना। यह स्पष्ट नहीं है। श्री मुकेश उपाध्याय ने 2003 के बाद बी0एड की डिग्री ली है तो वह उससे पहले स्कूल संचालन में प्रधानाध्यापक के स्थान पर हस्ताक्षर करना नामांकन पत्र के साथ संलग्न अंकतालिका की प्रमाणिता पर प्रश्नचिह्न है। साथ ही यहां उल्लेखनीय है कि जब मुकेश उपाध्याय 1998 में स्कूल से जुड़ा तब शैक्षणिक योग्यता 12वीं उत्तीर्ण है, प्रधानाध्यापक के पद पर कार्य करने के लिए सक्षम नहीं था। 2003 में बन्द हो गया और संपूर्ण रिकॉर्ड जलने की रिपोर्ट दर्ज है तो श्री मुकेश उपाध्याय द्वारा किस रिकॉर्ड से मिलान कर अंकतालिका जारी की गई इससे अंकतालिका की सत्यता प्रमाणित नहीं की जा सकती है।

- ii. वर्ष 1994-95 में आदर्श पब्लिक स्कूल राजपुर (बढ़ा) तहसील राजगढ़ अलवर राजस्थान में प्रदेश बिना एस0एल0सी0 (School leaving certificate) कैसे हुआ?

श्रीमति ललिता, आम आदमी पार्टी द्वारा लिखित में कोई भी ब्यान नहीं दिये गये उन्होंने अपने जवाब में उनके पास उपलब्ध साक्ष्य तथा नामांकन पत्र की प्रति प्रस्तुत की। श्रीमति अंजू बाला का School Leaving Certificate (then Govt. High School Bhankri (Faridabad), Now GSSS Bhankri (Faridabad-1084) के द्वारा 13/09/2018 को जारी किया गया है। जब श्रीमति अंजू बाला का SLC 13/09/2018 को जारी किया है तो 1994-95 में आदर्श उ०प्रा०वि० रामपुर बढ़ा (अलवर) पर में प्रवेश किस आधार पर हुआ यह श्रीमति अंजू बाला और आदर्श प्राथमिक विद्यालय रामपुर बढ़ा के तत्कालीन व्यावस्थापक श्री भगवान सहाय उपाध्याय संतोषप्रद उत्तर नहीं दे पाए। इस बारे में जिला शिक्षा अधिकारी, गुरुग्राम और राजस्थान में शिक्षा अधिकारियों से मौखिक चर्चा करने पर एकमत राय आयी की वर्ष 1994-95 में बिना SLC प्रवेश संभव नहीं था। साथ ही अन्य राज्य में प्रवेश लेने हेतु आय छात्र की अंकतालिका/SLC पर जिला शिक्षा अधिकारी/जिला मौलिक शिक्षा अधिकारी के SLC पर Counter Sign भी सत्यता के लिए करवाए जाते थे। अतः श्रीमति अंजू बाला की अंकतालिका बिना प्रवेश करके जारी करना संशयात्मक है।

- iii. यहां यह भी उल्लेखनीय है कि जिला शिक्षा अधिकारी (मुख्यालय) अलवर की मेल द्वारा प्राप्त पत्र में लिखा है कि विद्यालय आदर्श शिक्षा समिति सेवा संस्थान ग्राम राजपुरा बढ़ा तहसील राजगढ़ जिला अलवर राजस्थान के प्रधानाध्यापक के विरुद्ध अंकतालिका व मार्कशीट बनाने के संबंध में पूर्व में मुकदमे दर्ज हुए हैं। इससे इस स्कूल की कार्यशैली संदेहास्पद प्रतीत होती है।

9. I have gone through enquiry report and all facts/record pertaining to the case and reply submitted by Smt. Anju Bala to the Show Cause Notice, additional evidence and statement recorded conclusion that Smt. Anju Bala could not produce any relevant document/evidence in support of genuineness of her 8th class/middle pass certificate allegedly issued by the Principal, Adarsh Public School, Rajpur Badha, District Alwar, Rajasthan.

10. I am fully convinced with the observation of the enquiry officer and the considered view that the educational qualification certificate submitted by Smt. Anju Bala with her nomination alleged issued by the Principal, Adarsh Public School, Rajpur Badha, District Alwar, Rajasthan is fake and forged. I also conclude that Smt. Anju Bala, did not possess the requisite education qualification i.e. Middle/8th Class pass from any recognized Institution/Board at the time of filing of nomination for contesting election of President Municipal Council, Sohna.

11. In view of the facts of the case, I, Dhanpat Singh, State Election Commissioner, Haryana, in exercise of the powers vested in me under article 243K and 243ZA of the Constitution of India and section 13A and 13I of the Haryana Municipal Act, 1973, declare that Smt. Anju Bala was disqualified at the time of her election for the post of President and therefore, she is hereby removed from the post of President, Municipal Council, Sohna, district Gurugram and also declare the said post vacant with immediate effect.

12. This order be notified in the official gazette of the State Government and also provided to all concerned.

Panchkula:
The 28th November, 2022.

DHANPAT SINGH,
State Election Commissioner, Haryana.